

1 LATHAM & WATKINS <sup>LLP</sup>  
Daniel M. Wall (Bar No. 102580)  
2 Christopher S. Yates (Bar No. 161273)  
505 Montgomery Street, Suite 2000  
3 San Francisco, California 94111-2562  
Telephone: (415) 391-0600  
4 Facsimile: (415) 395-8095  
Email ID: Dan.Wall@lw.com  
5 Chris.Yates@lw.com

6 Attorneys for ORACLE CORPORATION,  
CLIFFORD CHANCE LLP, DANIEL HARRIS  
7 and RONALD ALEPIN

8 UNITED STATES DISTRICT COURT  
9  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN JOSE DIVISION

12 *In re*

13 Application of

14 MICROSOFT CORPORATION,

15 Applicant,  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Case No. 06-80038 JF (PVT)

**DECLARATION OF DANIEL M. WALL IN  
SUPPORT OF RESPONSE TO  
MICROSOFT'S OBJECTIONS TO ORDER  
QUASHING SUBPOENAS TO ORACLE  
CORPORATION, CLIFFORD CHANCE  
LLP, DANIEL HARRIS AND RONALD  
ALEPIN**

Date: To be set

Time: To be set

Place: To be set

Before: Hon. Jeremy Fogel

1 Daniel M. Wall declares and says:

2 1. I am a member of the bar of the State of California, and a partner with the  
3 law firm of Latham & Watkins LLP, counsel for Oracle Corporation, Daniel Harris, Ronald  
4 Alepin, and Clifford Chance LLP in this matter. I have personal knowledge of the facts set forth  
5 below and, if called upon to do so, I could and would testify competently thereto.

6 2. On March 30 and 31, 2006, I attended the Oral Hearing on the Article 24  
7 proceeding to which Microsoft's subpoenas ostensibly relate. At that hearing, Microsoft  
8 presented approximately an hour of argument contesting the motivations and bona fides of those,  
9 like Oracle, who provided technical input to the Monitoring Trustee. This included arguments  
10 grounded in documents Microsoft obtained through access to file to the effect that Oracle, Sun  
11 and others handed the Monitoring Trustee the arguments which he used to criticize the  
12 disclosures. Microsoft made its views about the foundation for the Monitoring Trustee's  
13 opinions abundantly clear.

14 3. That said, substantially all of the remaining two days of hearing concerned  
15 the substantive sufficiency of the disclosures, which was addressed by multiple technical experts  
16 including the Monitoring Trustee and his staff. The debate over the adequacy of Microsoft's  
17 disclosures has plainly moved on beyond the question of what basis the Monitoring Trustee  
18 originally had for criticizing the disclosures, and by the conclusion of the hearing was grounded  
19 solely in objective technical issues.

20 I executed this declaration on this 17<sup>th</sup> day of April, 2006 at San Francisco,  
21 California.

22 I declare under penalty of perjury under the laws of the United States of America  
23 that the foregoing is true and correct.

24  
25 

26 DANIEL M. WALL

27 SF558145.1